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MOSER, PATTERSON & SHERIDAN, LLP/  
SEDNA PATENT SERVICES, LLC  
595 SHREWSBURY AVENUE  
SUITE 100  
SHREWSBURY, NJ 07702

EXAMINER

HUYNH, SON P

ART UNIT PAPER NUMBER

2611

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/633,197	<b>Applicant(s)</b> GOODE, CHRISTOPHER W.B.	
	<b>Examiner</b> Son P. Huynh	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-19,22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-19,22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/22/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's arguments with respect to claims 1-6, 8-19, 22-23 as amended, have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues "Thomas, Candelore, Carlin and Martin references, alone or in combination, fail to teach or suggest at least the "at least one of increasing and decreasing the size of said memory resource in response to said usage statistics" as recited in the claim as amended (page 10, paragraph 2; page 12, lines 6-7, lines 29-30, page 13, lines 5-6, lines 26-27, page 14, lines 1-2).

In response, this argument is respectfully traversed. Thomas disclose being aware of access statistics for their content is very important to content providers because it allows them to better manage their content (paragraph 0016). Thomas further discloses data content is retrieved from the content provider and stored in cache of traffic server and the data content is deleted from the cache in response to requests (paragraph 0048, paragraph 0057, paragraph 0066). Therefore, the claimed "memory resource" is broadly met by the memory that store the particular data content that is retrieved and cached at the traffic server in response to the requests, and claimed "usage statistic" is broadly met by the requests for retrieve a particular data content to cache or delete the

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particular cached data content. Since the particular retrieved data content is cached in the traffic server in response to the requests, as a result, the size of the memory resource (memory portion occupied by the particular retrieved content data) is increased in response to the usage statistics (requests), and since the previous particular retrieved data content is deleted from the memory portion of the cached in response to the usage statistic (i.e. no request for the previous particular retrieved data content), as a result, the size of memory resource (portion occupied by the retrieved content) is decreased in response to the usage statistics (no requests or request to delete). Therefore, Thomas inherently discloses "at least one of increasing and decreasing the size of the memory resource in response to said usage statistics."

For the reason given above, rejections on claims 1-6, 8-19, 22-23 are analyzed as discussed below.

Claims 7, 20-21 have been canceled.

### ***Claim Objections***

2. Claims 14-15 are objected to because of the following informalities:

In claim 14, line 1, the phrase "wherein said rules also define" should be replaced as – rules define". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 6, 8-10, 13-14, 16, 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Thomas Huston et al. (US 2002/0007402 A1).

Regarding claim 1, Thomas Huston (hereinafter referred to as Thomas) teaches the method comprising:

“establishing by a service provider a resource lease with each of at least one content provider, each content provider storing at least some of a plurality of content assets within the leased resource at at least one service provider location” is met by establishing, by access provider an agreement to guarantee a minimum amount of space to at least one content provider, each content provider storing at least some of a plurality of content assets within the allocated space at the access provider – par. 0063); “said leased resource comprising a memory resource” is met by the space at the

access provider/traffic server comprising a portion that store the retrieved/pre-fetched content data – par. 0055-0056, par. 0066);

“fulfilling subscriber requests for available content stored at the at least one service provider location” is broadly met by fulfilling subscriber requests for available content stored at the access provider– par. 0042, par. 0063);

“generating usage statistics” (requests - par. 0064, par. 0067);

“providing said usage statistics to said at least one content provider” is met by informing content provider about the usage statistics/requests (par. 0064-par. 0072); “selecting, according to said at least one content provider, which content assets are stored in said leased resource” is met by the content provider agree with the access provider which content is stored if the allocated space is insufficient to store all of the content of the content provider (par. 0063).

Thomas further discloses being aware of access statistics for their content is very important to content providers because it allows them to better manage their content (paragraph 0016). Thomas further discloses data content is retrieved from the content provider and stored in cache of traffic server and the data content is deleted from the cache in response to requests (paragraph 0048, paragraph 0057, paragraph 0066). Therefore, the claimed “memory resource” is broadly met by the memory that store the particular data content that is retrieved and cached at the traffic server in response to the requests, and claimed “usage statistic” is broadly met by the requests for retrieve a particular data content to cache or delete the particular cached data content. Since the particular retrieved data content is cached in the traffic server in response to the

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requests, as a result, the size of the memory resource (memory portion occupied by the particular retrieved content data) is increased in response to the usage statistics (requests), and since the previous particular retrieved data content is deleted from the memory portion of the cached in response to the usage statistic (i.e. no request for the previous particular retrieved data content), as a result, the size of memory resource (portion occupied by the retrieved content) is decreased in response to the usage statistics (no requests or requests to delete). Therefore, Thomas inherently discloses "at least one of increasing and decreasing the size of the memory resource in response to said usage statistics."

Regarding claim 2, Thomas further teaches generating service centric data (e.g. generating requests that could not be processed – par. 0065); adapting service operation according to the usage statistics and the service centric data (e.g. deleting particular content which remains in cache for a specified time without a request for the particular content – par. 0057. Additional attempts to process requests that cannot be processed may be periodically made– par. 0065-par. 0066).

Regarding claim 3, Thomas further teaches generating content centric data; and providing the content centric data to the at least one content provider (e.g. generating number of content accessed, time, etc. and providing these data to the content provider – par. 0064-par. 0071).

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Regarding claim 6, Thomas further disclose deleting particular content if it remains in cache in a specified time without a request for the particular content (par. 0056), or pre-fetch content according to a user and content specific basic (par. 0056-par. 0058) reads on the claimed limitation “said leased resource is adapted in response to said usage statistics”

Regarding claim 8, Thomas teaches a method comprising:

“assigning by a service provider to each of a plurality of content providers content management responsibilities for respective service provider resources” is met by assigning, by access provider to each of a plurality of content providers an agreement to guarantee a minimum amount of space that store content from the content provider – par. 0063); “said service provider resources comprising a memory resource” is met by the space access provider/traffic server comprising a portion that store the retrieved/pre-fetched content data – par. 0055-0056, par. 0066);

“fulfilling subscriber requests for said content assets stored in said respective service provider resource” is met by fulfilling subscriber requests for content assets stored at the access provider– par. 0042, par. 0063);

generating usage statistics (requests- par. 0064, par. 0067);

“providing said usage statistics to said at least one content provider” is met by informing content provider about the usage statistics/requests (par. 0064-par. 0072);

“selecting, in response to information provided by said content provider, which content assets are stored within the respective service provider resource” is met by the



content provider agree with the access provider which content is stored if the allocated space is insufficient to store all of the content of the content provider (par. 0063).

Thomas further discloses being aware of access statistics for their content is very important to content providers because it allows them to better manage their content (paragraph 0016). Thomas further discloses data content is retrieved from the content provider and stored in cache of traffic server and the data content is deleted from the cache in response to requests (paragraph 0048, paragraph 0057, paragraph 0066). Therefore, the claimed "memory resource" is broadly met by the memory that store the particular data content that is retrieved and cached at the traffic server in response to the requests, and claimed "usage statistic" is broadly met by the requests for retrieve a particular data content to cache or delete the particular cached data content. Since the particular retrieved data content is cached in the traffic server in response to the requests, as a result, the size of the memory resource (memory portion occupied by the particular retrieved content data) is increased in response to the usage statistics (requests), and since the previous particular retrieved data content is deleted from the memory portion of the cached in response to the usage statistic (i.e. no request for the previous particular retrieved data content), as a result, the size of memory resource (portion occupied by the retrieved content) is decreased in response to the usage statistics (no requests or request to delete). Therefore, Thomas inherently discloses "at least one of increasing and decreasing the size of the memory resource in response to said usage statistics."

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Regarding claims 9-10, the claimed limitations correspond to the claimed limitations as claimed in claims 2-3, and are analyzed as discussed with respect to the rejection of claims 2-3.

Regarding claim 13, Thomas discloses an apparatus (access provider/origin servers, traffic server, cache, differencing engine) coupled to a plurality of subscribers (102) and to content suppliers (112) (figures 1-2), the apparatus comprising:

“a server complex comprising a plurality of partitions, each of said partitions storing video assets provided by respective content supplier;” is met by a storage that store content of a respective content provider in a predetermined portion of the storage (par. 0040, par. 0063);

“a controller capable of: (i) distributing content assets, including video assets, (ii) providing usage data to content suppliers, and (iii) selecting which content assets, including video assets, are stored in said respective partitions in response to the content suppliers” is met by traffic server/differencing engine for (i) distributing video content, according to rules (e.g., deleting old version/least recently content first if the allocated space is insufficient to store all the content of the content provider) according to agreement between content provider and access provider (par. 0063), (ii) providing usage data to content provider (par. 0064-par. 0067), and (iii) selecting content are stored in allocated space in response to the agreement between the content provider and access provider if the allocated space is insufficient to store all of the content of the content provider (par. 0063).

Thomas further discloses being aware of access statistics for their content is very important to content providers because it allows them to better manage their content (paragraph 0016). Thomas further discloses data content is retrieved from the content provider and stored in cache of traffic server and the data content is deleted from the cache in response to requests (paragraph 0048, paragraph 0057, paragraph 0066). Therefore, the claimed "partition" is broadly met by the portion of space that store the particular data content that is retrieved and cached at the traffic server in response to the requests, and claimed "usage statistic" is broadly met by the requests for retrieve a particular data content to cache or delete the particular cached data content. Since the particular retrieved data content is cached in the traffic server in response to the requests, as a result, the size of one partition (memory portion occupied by the particular retrieved content data) is increased in response to the usage statistics (requests), and since the previous particular retrieved data content is deleted from the memory portion of the cached in response to the usage statistic (i.e. no request for the previous particular retrieved data content), as a result, the size of one partition (portion occupied by the retrieved content) is decreased in response to the usage statistics (no requests or request to delete). Therefore, Thomas inherently discloses "at least one of increasing and decreasing the size of at least one partition in response to said usage statistics."

Regarding claim 14, Thomas further discloses the agreement between content provider and access provider includes deleting oldest or least recently used content in the

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allocated space for content provider in the storage reads on the claimed limitation of “a rules also define how content suppliers provision respective server complex partitions.”

Regarding claim 16, Thomas further discloses the access provider guarantees a minimum amount of space to particular content providers according to agreement between access provider and content provider (par. 0063) reads on the claimed limitation of “server complex partitions are leased by said content suppliers.”

Regarding claim 18, Thomas further discloses the content stored in allocated space is determined based on the usage access data/status of content, informed to content provider by traffic server/differencing engine, and agreement between access provider and content provider (for example, deleting least recently used content first – par. 0063-par. 0067) reads on the claimed limitation of “the content suppliers adapt the content stored in the respective partitions in response to content-centric data provided by said controller.”

Regarding claim 19, Thomas also discloses pre-fetch content into cache to provide preferential access to the content by client 228. Thomas further discloses deleting a particular content if it remains in cache for a specified time without a request for the particular content (par. 0056-par. 0057). As a result, the plurality of partitions is increased or decreased in response to the usage statistics (e.g. catch space for pre-

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fetches data content will be increased if more content is pre-fetched or decreased if the particular content is deleted).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15, 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (US 2002/0007402) as applied respectively to claim 14 and 1 above, and further in view of Hokanson (US 6,094,680).

Regarding claim 15, Thomas teaches an apparatus as discussed in the rejection of claim 14. However, Thomas does not specifically disclose the rules define at least one of a navigation parameter, a program motion parameter and a packaging parameter of the video assets provided by the content suppliers.

Hokanson discloses dynamically adjusts the resource offerings to better service of user's requests such as increasing storage capacity as demand increases (col. 8, lines 29-61-as a result, the size of memory resource is increased in response to usage

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statistics), and removing less requested content from the portion of storage (col. 3, lines 26-31, col. 11, lines 26-28- as a result, size of memory resource (portion that stored less requested movie) is decreased in response to usage statistics). Hokanson further discloses the processor monitors user requests for different resources; the processor further monitors user behaviors such as access time, requests for resource locally stored or remotely stored, etc. for making more informed business decisions concerning improving or upgrading facilities, upgrading server performance, increasing storage capacity, remove content from one location to another location (col. 6, line 30-col. 7, line 7; col. 8, lines 18-61). Thus, the rules define at least one of a navigation parameter (user's behavior such as request for particular resource). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas to use the teaching as taught by Hokanson in order to balance availability of the resources in response to user demand against the cost to render the resource available (col. 3, lines 62-65) and furthermore, to better service the user's requests and to minimize the cost (col. 6, lines 40-45).

Regarding claim 23, Thomas discloses the method as discussed in the rejection of claim 1. Thomas further discloses the leased resource comprises at least a portion of a server complex having a plurality of resource partitions (portions that stores pre-fetched or other data content). Thomas further discloses deleting oldest/non request content from the particular portion of the leased resource (par. 0057). However, Thomas does not specifically disclose migrating content assets between resource partitions.

Hokanson discloses highly requested content might be moved to higher hierarchical level (e.g., higher performing device, or replicated) while the less requested content might be moved to lower hierarchical level (e.g., lower performing device, or removal of any additional copies) if the cost/availability criteria indicates that the system will run more effectively for user demand without increasing costs (col. 3, lines 17-31) reads on the claimed feature of "migrating content assets between resource partitions according to said usage statistic" wherein the hierarchical levels reads on the "resource partitions" and user demands reads on the "usage statistics." Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas to use the teaching as taught by Hokanson in order that the system run more effectively for user demand without increasing costs (col. 3, lines 29-31).

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (US 2002/0007402) as applied to claim 1 above, and further in view of Candelore (US 6,057,872).

Regarding claim 22, Thomas further discloses "defining rules for said content assets according to at least one of said service provider or said content provider" is met by defining rules (for example, oldest or least recently used content is deleted first) according to agreement between access provider and content provider upon a particular

approach to be used when the allocated space is insufficient to store all of the content of the content provider (par. 0063);

“fulfilling subscriber requests for available content stored at the at least one service provider location according to said rules” is met by fulfilling subscriber requests for available content stored at the access provider according to the agreement between access provider and content provider – par. 0042, par. 0063). . However, Thomas does not specifically disclose the rules defining promotion and packaging of content assets.

Candelore discloses the service providers and advertisers define promotion (such as coupon/credit) and multiplexes the digital coupon information along with the program service data as defined by preconditions of the digital coupon information (col. 3, lines 26-39; col. 7, lines 19-29; col. 10, lines 54-62) reads on the claimed limitation of rules for content assets according to at least one of the service provider or the content provider, the rules defining promotion and packaging of the content assets. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas to use the teaching as taught by Candelore in order to encourage viewership (col. 11, lines 8-15).

8. Claims 4-5, 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas Huston et al. (US 2002/0007402 A1) as applied to claim 1 or claim 8 above, and further in view of Carlin et al. (US 6,119,152).



Regarding claim 4, Thomas teaches a method as discussed in the rejection of claim 1. However, Thomas does not specifically disclose remitting compensation to the at least one content provider in response to the usage statistics.

Carlin teaches the owner of multi-provider pay to the provider revenues received from the subscribers (col. 6, lines 30-36) reads on the claimed limitation "remitting compensation to said at least one content provider in response to the usage statistics." Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas to use the teaching as taught by Carlin in order to provide an alternative way to pay content provider.

Regarding claim 5, Carlin teaches the owner of the multi provider on line service subtracts its fees from the revenues received from the subscribers and pays the difference to the provider (col. 6, lines 30-36) reads on the claimed limitation "said remitted compensation is offset by the value of said lease." Therefore, it would have been obvious to one of ordinary skill in the art to modify Thomas to simplify transaction transferring (e.g., the service provider transfers compensation after subtracting all fees that the service provider charges content provider instead of the service provider transfers all revenues to content provider and then the content provider transfers back the fees that the service provider charges to content provider).

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Regarding claims 11-12, the limitations as claimed correspond to the limitations as claimed in claims 4-5 respectively, and are analyzed as discussed with respect to the rejection of claims 4-5.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas Huston et al. (US 2002/0007402 A1) as applied to claim 13 above, and further in view of Martin et al. (US 6,606,607).

Regarding claim 17, Thomas teaches an apparatus as discussed in the rejection of claim 13. However, Thomas does not specifically disclose auctioning.

Martin discloses system and method for coordinating an auction for an item between a multi auction services (col. 6, lines 44-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas to use the teaching as taught by Martin in order to allow seller to obtain highest price of an item.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Urry (US 6,381,746) discloses scalable video system having shared control circuits for sending multiple video streams to respective sets of viewers.

Shaw et al. (US 2002/0083148) discloses system and method for sender initiated caching of personalized content.

Kornher (US 6,094,695) discloses storage buffer that dynamically adjust boundary between two storage areas when one area is full and the other has an empty data register.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

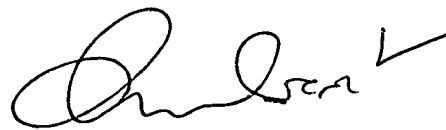
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH  
October 14, 2005



**CHRISTOPHER GRANT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800**